REMARKS

Claims 22-26, 33 and 47 - 48 are in this application. Claims 1-21, 27-32 and 34- 46 have been cancelled. Claim 33 has been amended and Claims 47 and 48 have been added.

Applicants preserve all rights to file one or more divisional applications directed to any subject matter disclosed in this application and not presently claimed.

Support for Claim 47 is found in original Claim 33. Support for Claim 48 is found, *interalia*, in Examples 4A and 4B.

According to the the Official Action, Claims 1, 2, 4-7, 38, 43, 44 and 46 are rejected under 35 USC 102(a) as being anticipated by De Souza (U.S. Patent 6,514,986). This rejection is respectfully traversed. Although, in view of the cancellation of Claims 1, 2, 4-7, 38, 43, 44, and 46 this rejection is moot, applicants preserve all rights to establish during prosecution of this application, any continuation, divisional, continuation-in-part application, etc. or related application that the subject matter of Claims 1, 2, 4-7, 38, 43, 44, and 46 is not anticipated by the cited reference.

According to the Official Action, Claims 1, 2, 4-7, 38, 43, 44, and 46 have been rejected under 35 USC 102(e) as being anticipated by Patel I (2003/0207908) or Patel II (6,750,224). This rejection is respectfully traversed. Although, in view of the cancellation of Claims 1, 2, 4-7, 38, 43, 44, and 46 this rejection is moot, applicants preserve all rights to establish during prosecution of this application, any continuation, divisional, continuation-in-part application, etc. or related application that the subject matter of Claims 1, 2, 4-7, 38, 43, 44, and 46 is not anticipated by the cited references.

According to the the Official Action, Claims 1, 2, 4-7, 38, 43, 44 and 46 are rejected under 35 USC 102(a) as being anticipated by De Souza (WO 01/85095). This rejection is respectfully traversed. Although, in view of the cancellation of Claims 1, 2, 4-7, 38, 43, 44, and 46 this rejection is moot, applicants preserve all rights to establish during prosecution of this application, any continuation, divisional, continuation-in-part application, etc. or related application that the subject matter of Claims 1, 2, 4-7, 38, 43, 44, and 46 is not anticipated by the cited reference.

According to the Official Action, Claims 1, 2, 4-6, 38, 43, 44, and 46 have been rejected under 35 USC 102(b) as being anticipated by Patel III (WO 00/68229). This rejection is respectfully traversed. Although, in view of the cancellation of Claims 1, 2, 4-6, 38, 43, 44, and 46 this rejection is moot, applicants preserve all rights to establish during prosecution of this application, any continuation, divisional, continuation-in-part application, etc. or related application that the subject matter of Claims 1, 2, 4-6, 38, 43, 44, and 46 is not anticipated by the cited references.

According to the Official Action, Claims 1-7, 21-26, 33, 38, and 43-46 are rejected under 35 USC 103(a) as being unpatentable over Ishikawa (U.S. Patent 4,399,134) or Hashimoto or Morita or Kido in view of Berge and/or Fujisawa and further in view of Kwan (U.S. Patent 5,200,558). Applicants respectfully traverse this rejection.

As noted above, Claims 1-7, 21, 38 and 43-46 have been cancelled.

Applicants' respectfully disagree with the Examiner's statement "[g]uided by the teaching of Berge and Fujusawa, one of ordinary skill in the art would be motivated to prepare the arginine salt of the piperidinyl-benzoquinolizine compound of Ishikawa to arrive

at the instant invention."

Applicants again respectfully disagree that the claimed invention is obvious. There is no suggestion in the combination of references to prepare the compounds that applicants claim. Table III on page 5 of Berge lists 40 different salt-forming agents and a large number of antimicrobials. There is no suggestion to select arginine as the salt and in fact, fluoroquinolones are not even included in the table. Fujisawa discloses arginine and lysine salts of particular cephalosporins but this is disclosed in Berge, so this combination does not suggest the claimed invention.

As stated in the prior response, the structure and use of ibuprofen differ from that of the claimed fluoroquinolones such that one skilled in the art considering Kwan would not have the suggestion nor the expectation of success of preparing the claimed L-arginine, D-arginine or DL-arginine salts. In fact, there is no data in Kwan that use of L-amino acids and D-amino acids give an onset-hastened, enhanced analgesic response. In column 2, lines 41-68, there is a description of experiments that can be carried out to demonstrate the increased therapeutic effects but there is no actual data in the patent to establish that there is a benefit in using L-amino acids or D-amino acids.

In respect to Ishikawa, according to col. 20, line 57-col. 21, line 10 pharmaceutically acceptable salts of the compounds of formula I can be prepared and states that salts can be prepared from organic or inorganic acids or organic or inorganic basic compounds. There is a list of basic compounds and there are no amino acids in this list. Based on the fact that there is a specific list of basic compounds and amino acids are not included, one skilled in the art would not have a reasonable expectation that benzoquinolizine compounds could form pharmaceutically acceptable L-arginine, D-arginine or DL-arginine salts.

Therefore, since Berge does not disclose benzoquinolizine compounds, the compounds of Fujisawa and Kwan differ in both their structure and their properties and Ishikawa does not include nor suggest that amino acid salts of benzoquinolizine compounds can be prepared, it is applicants' position that the claimed compounds are not obvious. The suggestion to do what applicants' have done is not found in the prior art and one skilled in the art considering the cited references would not have a reasonable expectation that the claimed compounds could be prepared and would have the properties that they do.

Furthermore, as none of the references disclose nor suggest a method for enhancing optical purity of S-(-)-9-fluoro- 6,7-dihydro-8-(4-hydroxypiperidin-1-yl)-5-methyl-1-oxo-1H,5H-benzo[i,j]quinolizine-2- carboxylic acid L-arginine salt Claims 33, 47 and 48 are not obvious.

It is respectfully requested that this rejection be withdrawn.

The Examiner has rejected Claims 1-7, 22-26, 33, 38 and 43-46 as being obvious over WO 00/68229 in view of Kwan. Applicants respectfully traverse this rejection.

As stated above, Kwan discloses arginine salts of ibuprofen. Ibuprofen like cephalosporins have a different structure than the benzo[i,j]quinolizine compounds of this invention. Furthermore, as stated above, there is no data in Kwan that use of L-amino acids and D-amino acids give an onset-hastened, enhanced analgesic response. In column 2, lines 41-68, there is a description of experiments that can be carried out to demonstrate the increased therapeutic effects but there is no actual data in the patent to establish that there is a benefit in using L-amino acids or D-amino acids. Therefore, one skilled in the art considering these references would have no reasonable expectation of success that the

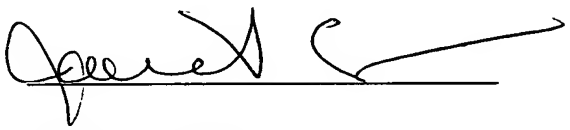
claimed compounds could be prepared. In addition, there is no suggestion in the combination of the references that the compounds of this invention can be prepared and have the properties described in this application.

Furthermore, as none of the references disclose nor suggest the method of Claims 33, 47 and 48 these claims are not obvious

Accordingly, it is respectfully requested that the rejection be withdrawn.

It is respectfully submitted that this application is in condition for allowance and favorable consideration is respectfully requested.

Respectfully submitted,



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